

ARBITRATION OF SAN DOMINGO IMPROVEMENT COMPANY CLAIM

Protocol and agreement to naming of arbitrators signed at Santo Domingo January 31, 1903

Entered into force January 31, 1903

*Terminated upon fulfillment of its terms*¹

Treaty Series 417

PROTOCOL

of an agreement between the United States of America and the Dominican Republic, for the submission to arbitration of certain questions as to the payment of the sum hereinafter agreed to be paid by the Dominican Government to the Government of the United States on account of the claims of the San Domingo Improvement Company of New York, a corporation under the laws of the State of New Jersey and a citizen of the United States, and its allied companies.

WHEREAS, differences exist between the Dominican Government and the "San Domingo Improvement Company" and its allied companies; and

WHEREAS, as the result of those differences, the interests of the Improvement Company and its allied companies, viz: "The San Domingo Finance Company of New York," "The Company of The Central Dominican Railway," both being corporations created under the laws of New Jersey, and the National Bank of San Domingo, a company originally organized under a French charter, the two latter companies being owned and controlled by the San Domingo Finance Company, are seriously affected; and

WHEREAS, it is agreed, as the basis of the present settlement, that the Improvement Company and its allied Companies shall withdraw from the Dominican Republic, and that they shall be duly indemnified by the latter for the relinquishment of their rights, properties and interests.

The United States of America and the Dominican Republic through their respective representatives, W. F. Powell, Chargé d'Affaires, and Juan Fco. Sanchez, Secretary of State for Foreign Relations, have agreed upon the following articles:

¹ Award rendered July 14, 1904. For text, see 1904 For. Rel. 274.

I

It being hereby agreed that the Dominican Government shall pay to the Government of the United States the sum of \$4,500,000 (four millions five hundred thousand dollars) in American gold, on terms to be fixed by the arbitrators, said payment to be made and accepted as full indemnity for the relinquishment by the companies above-mentioned of all their rights, properties and interests, and in full settlement of all accounts, claims and differences between the Dominican Government and the said companies; the terms on which the indemnity thus agreed upon shall be paid shall be referred to a board of three arbitrators, one to be named by the President of the United States, one by the President of the Dominican Republic, and the third by the President of the United States and the President of the Dominican Republic jointly; but if, within sixty days after the signature of the present protocol, the third arbitrator shall not have been so named, he shall then be selected by the Dominican Government from members of the United States Supreme Court or the United States Circuit Court of Appeals, from names presented.

In case of the death, absence or incapacity of any arbitrator, or in the event of his ceasing or omitting to act, the vacancy shall be filled in the same manner as the original appointment, the period of sixty days to be calculated from the date of the happening of the vacancy.

II

The arbitrators shall meet in the city of Washington, within sixty days after the date of the appointment of the third arbitrator.

The vote of the majority shall suffice for the decision of all questions submitted to the tribunal, including the final award.

III

Within six months after the signature of this protocol, each party shall present to the other and to its agent, and also to each of the arbitrators, two printed copies of its case, accompanied with the documents and evidence on which it relies, together with the affidavits of their respective witnesses.

Within a further period of two months, either party may, in like manner, present a counter-case, with additional documents and evidence and affidavits, in reply to the case, documents and evidence of the other party.

If the other party shall, in its case or counter-case, refer to any document in its exclusive possession without annexing a copy, it shall, upon the request of the other party, furnish the latter with a copy; and either party may call upon the other through the arbitrators, to produce the originals or certified copies of any papers adduced as evidence.

IV

Within two months after the expiration of the term allowed for the filing of counter-cases, each Government may, by its agent, as well as by additional

counsel, argue its cause before the arbitrators, both orally and in writing. Each side shall furnish to the other copies of any written arguments, and each party shall be at liberty to make a written reply, provided that such reply be submitted within the two months specified.

V

The Companies above mentioned shall cede and transfer to the Dominican Government, and the latter shall acquire from the Companies, the properties mentioned herein, the times, terms and conditions of the delivery of which shall be fixed by the arbitrators:

1. All the rights and interests which they may possess in the section of the Central Dominican Railway already constructed, as well as all rights and interests which they may have in the extension of the railways from Santiago to Moca, and from Moca to San Francisco de Macoris.

2. All rights and interests which they may have in the National Bank.

3. All bonds of the Republic of which they may be the holders, the amount of which shall not exceed £850,000, nominal (eight hundred and fifty thousands sterling pounds), nominal and shall be no less than £825,000 (eight hundred and twenty five thousands sterling pounds nominal).

It is understood that all these bonds are of the class bearing four per cent, annual interests excepting as to £24,000 (twenty four thousands sterling pounds) two and three-quarter per cent bonds, which shall be accepted at the rate of sixteen $2\frac{3}{4}\%$ bonds for eleven 4% bonds. A list of the bonds shall accompany the case of the United States.

VI

It is agreed, as the basis of the award to be made by the arbitrators, that the sum specified in Article I hereof shall be paid in monthly instalments, the amount and manner of collection of which shall be fixed by the tribunal. The award shall bear interest from the date of its rendition at the

The Dominican Government having, in its recent negotiations with the American Companies, proposed to pay, on account of its indebtedness to them, a minimum sum of \$225,000 (two hundred and twenty five thousands dollars) per annum, which was to be increased on a sliding scale, it is agreed that the Dominican Government shall, pending the present arbitration, and beginning with the 1st of January 1903, pay to the Government of the United States for the use of the American Companies, the sum of \$225,000 (two hundred and twenty five thousands dollars) per annum, in equal monthly instalments, the aggregate amount so paid, at the date of the award, to be taken into account by the arbitrators.

VII

The award of the tribunal shall be rendered within a year from the date of the signature of the present protocol. It shall be in writing, and shall be final and conclusive.

VIII

Reasonable compensation to the arbitrators for their services and all expenses incident to the arbitration, including the cost of such clerical aid as may be necessary, shall be paid by the Governments in equal moieties.

Done in quadruplicate, in English and Spanish, at San Domingo City, this 31st day of January 1903.

W. F. POWELL [SEAL]
Chargé d'Affaires

JNO FCO SÁNCHEZ [SEAL]
Ministro de Relaciones Exteriores

AGREEMENT TO THE NAMING OF ARBITRATORS

It is hereby agreed, on the part of the Dominican Government, through Juan Francisco Sanchez, Secretary of State for Foreign Relations, and the Chargé d'Affaires of the United States of North América, in the person of W. F. Powell, each acting for his respective Government, agree that neither of the signatory parties to this Protocol for International Arbitration, to which has been referred certain disagreements existing between the Dominican Government on the one side, and the Santo Domingo Improvement Company on the other, shall name its Arbitrator as stated in said Protocol, until after a period of ninety (90) days from the date of signing the same, in order to allow the Dominican Government to come to an agreement with the Santo Domingo Improvement Company, and the date referred to in the appointment of the third Arbitrator shall bear same as that expressed above.

To the above we agree, and with good faith to carry the same into effect, have here-unto affixed our names and attached thereto the Seals of our respective Offices.

Done this 31st Day of January, 1903.

W. F. POWELL [SEAL]
*Chargé d'Affaires of the
United States of North America*

JNO FCO SÁNCHEZ [SEAL]
*Secretary of State
for Foreign Relations of the
Republic of San Domingo*